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Paper No. 6

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MAY 20 2002

In re Application of :
Michael J. Payne et al :
Application No. 09/965,230 :
Filed: September 25, 2001 :
Attorney Docket No. 042390.P12154 :

OFFICE OF PETITIONS

ON PETITION **COPY MAILED**

DEC 11 2002

OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a), filed February 13, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2), the declaration and power of attorney fails to set forth the citizenship for inventor Rohan Coelho. The statute at 35 USC 115 requires that the declaration shall state the country of citizenship of each inventor. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 and signed by signing inventor Payne on behalf of himself and on behalf of nonsigning inventors Coelho and Hawash and leaving the signature block for nonsigning inventors Coelho and Hawash blank is REQUIRED. See MPEP 409.03(a), 602, and 605.01. See also 37 CFR 1.63(a)(3).

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Wan Laymon.

Further correspondence with respect to this matter should be addressed as follows:

By mail: U.S. Patent and Trademark Office
 Mail Stop DAC
 P.O. Box 2327
 Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
 Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
 2201 S. Clark Place
 Arlington, VA

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685.


Frances Hicks

Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Please abandon this case.
No reconsideration was
submitted within the
set time period in the
petition mailed
Dec. 11, 2002.

Serial # 09/965,230